

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

1. ONB BANK AND TRUST	)	
COMPANY, an Oklahoma Corporation,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 12-CV-389-GKF-FHM
	)	Base File
1. PHOENIX LIFE INSURANCE	)	
COMPANY, a New York life insurance	)	
company,	)	
2. PHOENIX LIFE AND ANNUITY	)	
COMPANY, a Connecticut life insurance	)	
company,	)	
	)	
Defendants.	)	

**AGREED MOTION TO DISMISS  
ONB BANK AND TRUST COMPANY’S CLAIMS AGAINST  
PHOENIX LIFE AND ANNUITY COMPANY WITHOUT PREJUDICE**

ONB Bank and Trust Company (“ONB”) and Phoenix Life and Annuity Company (“PLAC”) hereby move the Court to dismiss ONB’s breach of contract and bad faith claims against PLAC. As evidenced by the signatures of their respective counsel below, ONB and PLAC jointly request that the Court dismiss ONB’s breach of contract and bad faith claims against PLAC, and it is stipulated by and between PLAC and ONB, that these claims should be dismissed without prejudice. This dismissal is only concerning the breach of claims and bad faith claims asserted by ONB as to PLAC and will not affect any remaining claims between ONB, PLAC and Amy Inman in the consolidated interpleader action.

WHEREAS, PREMISES CONSIDERED, the Parties respectfully request that the Court grant this agreed motion and enter an order dismissing the case without prejudice. A proposed Order is being submitted contemporaneously herewith.

Respectfully Submitted,

By: /s/Garry M. Gaskins

*(signed by filing attorney with permission)*

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ATTORNEYS FOR PHOENIX LIFE AND  
ANNUITY COMPANY

**CERTIFICATE OF SERVICE**

I hereby certify that on the 26<sup>th</sup> day of September, 2012 I electronically transmitted the foregoing document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

Christopher B. Woods  
Elliot Paul Anderson  
Michael Barkett

s/Christopher B. Woods.  
Christopher B. Woods